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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,217	12/15/2003	Carl Young	3499-256	7693
27383	7590	02/11/2005	EXAMINER	
CLIFFORD CHANCE US LLP 31 WEST 52ND STREET NEW YORK, NY 10019-6131			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*R*

## Office Action Summary

Application No.	10/737,217	Applicant(s)
Examiner	Jamisue A. Webb	Art Unit 3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 22 November 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| <p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/>         Paper No(s)/Mail Date _____</p> | <p>4)<input type="checkbox"/> Interview Summary (PTO-413)<br/>         Paper No(s)/Mail Date _____</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____</p> |
|---|---|

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office action is in response to Amendment filed 11/22/04.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recite a computer-implemented method for managing secure risks where a computer receives information on a real-time basis from a government agency or a news feed. The specification lacks a description of how the system receives information from a government agency or a news feed and on a real time basis and can determine security risk for a specific facility or a resource. Does the government agency or news feed give this specific of information, or does the system or method take the information from the government agency or news feed and somehow determine the risk for a specific facility or resource, if this is done, then the specification is silent on how this is actually done. The claims also state that the information is received on a real time basis, but it is unclear how this can be received on a real time basis, if the government agency has to first take the information in first, the system would be getting the information second

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hand, which would not be a real time basis. Furthermore, the claim states that the indication of the security risk on a real time basis is for a resource located in the facility, the specification is silent as to how the system determines the security risk of the entire facility from the information on the resource. The specification is also silent as to how the government agency or news feed gives information on a specific resource located within the facility, how does the government agency or news feed know this specific of information. Overall the specification is silent as to how the system can receive information on a real time basis, and how the government agency or news feed can give information related specifically to a facility or resource within the facility.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. With respect to Claim 1: the phrase “therein the indication of a security risk comprises at least one of: a potential for physical, reputational, economic or legal harm to the resource” is indefinite. The claim states that the risk is associated with the first or second element, and this phrase indicates the indication of a security risk is only for the second element, therefore it is unclear what happens if the first element is chosen, how the security risk is determined for the first element.

7. With respect to Claim 2: the phrase “transmitting the list of resources” indefinite. It is unclear to the examiner where this list is being transmitted to.

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8. With respect to Claim 3: the phrase “wherein the first or second element selected comprises a geographical area delineated to a national boundary and a political boundary” is indefinite. In Claim 1, the first element is a facility and the second element is a resource in a facility. It is unclear to the examiner how a facility or resource within a facility can comprise a geographical area such as a national boundary or political boundary.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beverina et al. (US 2001/0027388) in view of Zimmers et al. (US 2005/0013417).

11. With respect to Claims 1, 15, 16: Beverina discloses the use of a computer system with a computer implemented method for managing security risks (see abstract) which uses a computer executable code (paragraph 0011) to perform the following steps:

- a. Setting a hierarchical relationship between two or more elements where the first element is a facility and the second element is a resource located within the facility (See Figures 8 and 15, paragraphs 0015, 0078, 0079 and 0110),
- b. Receiving an indication of a security risk of one or more of the elements (See Figures 8 and 15, paragraph 0011),
- c. Receiving selection of an element (See Figure 15); and

- d. Transmitting a description of the security risk as it relates to the element selected based on hierarchical relationship and indication of security risk (See Figures 15 and 16, paragraph 0012).
12. Beverina however, discloses the security risks are situational risks, fails to disclose the information related to the security risk is in real-time and is from a government agency or a news feed. Zimmers discloses the use of a real time weather feed, which the examiner considers to be a type of news feed, that is fed into a system and element information related to the risk are gathered and outputted based on facilities (See abstract, and Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Beverina, to include the informational information/news feed of Zimmers, in order to provide emergency information to persons needing to be notified of such information, and individuals can be notified of emergency that directly threatens or of interest to him or her. (See Zimmers, pages 1 and 2)
13. With respect to Claim 2: See Beverina Figure 16 and paragraph 0106.
14. With respect to Claim 3: See Beverina Figures 15 and 47.
15. With respect to Claim 4: See Beverina Figures 15, 16, 23 and 24.
16. With respect to Claim 5: the description of the security risk comprising misappropriation of information is considered to be descriptive non-functional language. This information is not further used in the claims, and therefore is analogous to printed matter. It has been held (In re John Ngai and David Lin, CAFC, 5/13/04, 03-1524) that when printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the art in terms of patentability. The case also states that if we were to adopt Ngai's position, anyone could

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continue patenting a product indefinitely provided they add a new instruction sheet to the product. The description of the security risk comprising misappropriation is simply a form of printed matter in an electronic form. Beverina discloses transmitting a security risk, what description information about the security risk is transmitted is considered to non-functional descriptive language and therefore is not given patentable weight, therefore Beverina anticipated Claim 5.

17. With respect to Claim 6: See Beverina Figure 23, paragraphs 0013 and 0096.
18. With respect to Claim 7: See Beverina paragraphs 0174, 0175 and 0209-0222.
19. With respect to Claim 8: See Beverina Figures 21 and 40, paragraph 0085.
20. With respect to Claim 9: See Beverina Figures 15 and 19.
21. With respect to Claim 10: See Beverina Paragraph 0198.
22. With respect to Claim 11: Beverina discloses a computer implemented method for managing a security risk of a facility (see abstract) comprising the steps of:
  - e. Presenting a graphical user interface related to a facility (See Figures 8 and 41, paragraph 0070),
  - f. Displaying security issue related to a geographic area (See Figure 8),
  - g. Indicating one or more threats (See Figure 8 and 15),
  - h. Displaying a relative location of an ingress route of the hazards (paragraphs 0180, 0198, 0269, 0307, 0308, 0443, and 0444).
23. Beverina however, discloses the security risks are situational risks, fails to disclose the information related to the security risk is in real-time and is from a government agency or a news feed. Zimmers discloses the use of a real time weather feed, which the examiner considers to be

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a type of news feed, that is fed into a system and element information related to the risk are gathered and outputted based on facilities (See abstract, and Figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Beverina, to include the informational information/news feed of Zimmers, in order to provide emergency information to persons needing to be notified of such information, and individuals can be notified of emergency that directly threatens or of interest to him or her. (See Zimmers, pages 1 and 2)

24. With respect to Claim 12: See Beverina Paragraphs 0008 and 0009.
25. With respect to Claim 13: See Beverina Figure 42, paragraphs 0016 and 0106.
26. With respect to Claim 14: Beverina discloses a method for managing security risks (See abstract) which comprises the steps of:
  - i. Inputting an indication of a facility (See Figures 19, 27 and 28, paragraph 0078),
  - j. Receiving an indication of one or more security risks (See Figure 15, paragraph 0080),
  - k. Inputting an indication of a subset of the facility, receiving information descriptive of the security risks of the subset and receiving an image of the subset of the facility (See Figures 6, 7, 19 and 27, paragraphs 0078-0080).
27. Beverina however, discloses the security risks are situational risks, fails to disclose the information related to the security risk is in real-time and is from a government agency or a news feed. Zimmers discloses the use of a real time weather feed, which the examiner considers to be a type of news feed, that is fed into a system and element information related to the risk are gathered and outputted based on facilities (See abstract, and Figure 2). It would have been

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obvious to one having ordinary skill in the art at the time the invention was made to modify Beverina, to include the informational information/news feed of Zimmers, in order to provide emergency information to persons needing to be notified of such information, and individuals can be notified of emergency that directly threatens or of interest to him or her. (See Zimmers, pages 1 and 2)

28. With respect to Claims 17 and 18: Beverina, as disclosed above for Claim 1, discloses the use of a computerized method that sets a hierarchical relationship between elements, indicates the risks of the selected element and transmits those risks to a user along with counter measures (See abstract and all figures). However, Beverina does not specifically recite the use of a digital signal embodied in a digital data stream comprising data relating to managing security risks. Beverina discloses in Figures 2, 6, 10, 12, 13, 23, and 24 and in paragraph 0014, the use of networks and plug-ins where data is transferred back and forth through different systems and databases and engines in order to access the security risk. The data that is being passed back and forth to process and computers of the system must be some sort of signal, therefore it is inherent that the data passed is in the form of a digital data signal, and if it is not inherent in the network/plug-ins themselves that the data passed is a digital data signal, then it would have been obvious to one having ordinary skill in the art that the data being passed through the network and computers is being passed using a digital signal due to the fact that it is old and well known in the art that when a network is set up digital cables are used to connect the computers together for the increased speed that digital cables provide.

***Response to Arguments***

29. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

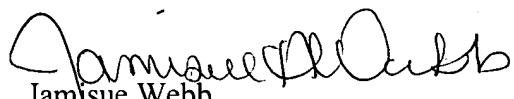
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

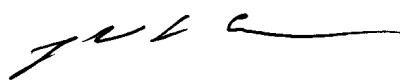
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamisue Webb



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